



## Financial Assistance Award

**DENALI COMMISSION**  
510 "L" Street, Suite 410  
Anchorage, Alaska 99501  
(907) 271-1414 (phone)  
(907) 271-1415 (fax)  
[www.denali.gov](http://www.denali.gov)

Authority  
112 Stat 1854

CFDA Number  
90.100

Denali Commission Finance  
Officer Certification

*JEP*

Award Number

257-07

Award Title

Shaktolik Evacuation Road  
Preliminary Engineering

Performance Period

May 23, 2006 to July 1, 2008

Authorizing Resolution

06-17

### Recipient Organization & Address

Kawerak, Incorporated  
Transportation Department  
PO Box 948  
Nome, Alaska 99762  
Phone: (907) 443-4337  
Fax: (907) 443-4452

Recipient DUNS # 183865278 TIN # 92-0047009

### Cost Share Distribution Table

Accounting Code	Denali Commission	Other Contributors	Total
FY07 FHWA Sec. 1960 Road Funding	\$55,000		\$55,000
Kawerak, Incorporated		\$55,000	\$55,000
<b>Total</b>	<b>\$55,000</b>	<b>\$55,000</b>	<b>\$110,000</b>

This Financial Assistance Award approved by the Federal Co-Chair of the Denali Commission is issued in triplicate and constitutes an obligation of federal funding. By signing the three documents, the Recipient agrees to comply with the Award provisions indicated below and attached. Upon acceptance by the Recipient, two signed Award documents shall be returned to the Federal Co-Chair of the Denali Commission and the Recipient shall retain the third document. If not signed and returned without modification by the Recipient within 30 days of receipt, the Federal Co-Chair may unilaterally terminate this Award.

- ☒ Special Award Conditions and Attachments  
☐ Line Item Budget  
☒ OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations  
(<http://www.whitehouse.gov/omb/circulars/a133/a133.html>)  
☒ Denali Commission and Federal Highway Administration Memorandum of Agreement 2006  
☒ Denali Commission and Kawerak, Incorporated Memorandum of Agreement 2006  
☒ SAFETEA-LU Section 1960 or Section 1934, or Section 3011 as applicable

### Administrative Requirements (check one)

- ☐ OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments  
(<http://www.whitehouse.gov/omb/circulars/a102/a102.html>)  
☒ 2 CFR Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations (OMB Circular A-110)  
([http://www.access.gpo.gov/nara/cfr/waisidx\\_05/2cfr215\\_05.html](http://www.access.gpo.gov/nara/cfr/waisidx_05/2cfr215_05.html))

### Cost Principles (check one)

- ☐ OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments  
([www.whitehouse.gov/omb/circulars/a087/a087-all.html](http://www.whitehouse.gov/omb/circulars/a087/a087-all.html))  
☒ OMB Circular A-122, Cost Principles for Nonprofit Organizations  
([www.whitehouse.gov/omb/circulars/a122/a122.html](http://www.whitehouse.gov/omb/circulars/a122/a122.html))  
☐ OMB Circular A-21, Cost Principles for Educational Institutions  
(<http://www.whitehouse.gov/omb/circulars/a021/a021.html>)  
☐ 48 CFR 31.2, Contracts with Commercial Organizations

Signature of Authorized Official - Denali Commission

*George J. Cannelos*

Typed Name and Title

George J. Cannelos, Federal Co-Chair

Date

12/12/06

Signature of Authorized Official - Kawerak, Incorporated

*Loretta Bullard*

Typed Name and Title

Loretta Bullard, President

Date

12/22/06



## ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

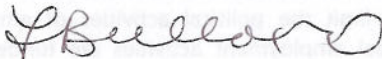
NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee - 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.



9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		TITLE
Loretta Bullard 		President
APPLICANT ORGANIZATION		DATE SUBMITTED
Kawerak, Inc. Award 257-07		12-22-06

*Award Conditions to the Financial Assistance Award  
Between the Denali Commission and  
Kawerak, Incorporated  
For Shaktoolik Evacuation Road Preliminary Engineering  
Award No. 257-07  
December 2006*

**1. Scope of Work**

Denali Commission is providing \$55,000 in Section 1960 SAFETEA-LU funds to Kawerak, Incorporated (Kawerak) for the subject project. Kawerak is providing \$55,000 in Kawerak funds, including the required match funds to meet the \$110,000 project budget. Denali Commission and match funds will be managed by Kawerak.

The project consists of a planning task preliminary design engineering to locate an evacuation road that can provide safe passage to high ground for residents and visitors in the event of flooding from fall storms and/or spring flooding. Preliminary design contracts associated with this project will be procured through an open and fair process consistent with Federal Highway Administration (FHWA) Title 23 requirements.

Shaktoolik was relocated to its present location by the federal government in the 1950's to take advantage of the new maritime supply system. However, recent changes in climate conditions, especially the absence of shore ice to protect the community during fall storms has resulted in the need for an escape route to safe ground. This project will investigate a road route to safe ground and a cost-effective road standard suited specifically to the task of escape during storm conditions. Preliminary design will include an environmental analysis of the route area and documentation of existing Right of Way.

This project will provide the first step in providing a safe and cost-effective road for escape from flooding due to fall storms and/or spring flooding. Subsequent stages of the project that are beyond the current scope include final design and construction of an escape route. The design phase will include full NEPA documentation and Right of Way certification, which is not required at this preliminary engineering stage.

The preliminary environmental and Right of Way documentation that is developed under this phase of work will be retained in the project's file at Denali Commission as base data and file documentation should the commission be involved in funding of the Design Phase. The City of Shaktoolik would own the road that results from this preliminary engineering project, and would maintain the road in coordination with Kawerak.

All Denali Commission funding is intended for use within the scope of work identified in the Award document only. Any balance of funds remaining after the full scope of work has been completed will be returned to the Denali Commission. Denali Commission has post-dated the project milestones to allow Kawerak to use its match funds for expenditures incurred after the project was approved on May 23, 2006 and in advance of the Financial Assistance Award signature. The intent of this action is to allow

preliminary design investigations to get underway as soon as is practical given the emergency nature of the project.

## **2. Milestones**

The following milestones are identified as the major steps to be completed as part of the project. "Planned" dates for the first milestone are included here. As part of each progress report, Kawerak reporting systems will update the progress toward meeting these milestones (see section 7, Reporting).

Milestone	Planned		Actual		Units	Total Cost At Completion
	Start Date	End Date	Start Date	End Date		
Preliminary design including Environmental Documents	05/23/06	04/1/2008			0	\$0.00
Final Design including Right of Way Documents	N/A	N/A			0	\$0.00
Construction Phase	N/A	N/A			0	\$0.00
Project Close-out	04/01/2008	07/01/2008			0	\$0.00

## **3. Award Performance Period**

The Award performance period is May 23, 2006 through July 1, 2008. This is the period during which Award recipients can incur obligations or costs against this Award.

## **4. Direct and Indirect Costs**

Direct costs associated with Shaktoolik Evacuation Road Preliminary Engineering are allowed under the Memorandum of Agreement (MOA) between Denali Commission and Kawerak. Indirect costs associated with the project are allowed per Kawerak's Indirect Cost Negotiation Agreement approved by the US Department of the Interior, as attached.

## **5. Budget and Program Revisions**

The Uniform Administrative Requirements, 2 CFR Part 215 (formerly OMB A-110), apply to this Award. Please refer to this CFR for specific details on revisions to this Award. The CFR requires Kawerak to inform the Denali Commission in writing at the earliest possible date of any unanticipated project cost overrun, project schedule delays, or changes in the project scope or changed site conditions. Under the MOA between the Denali Commission and Kawerak, Kawerak is responsible for cost overruns on this project.

## **6. Payments**

Payments under this Award will be made by electronic transfer in response to a "Request for Advance or Reimbursement", Standard Form 270 (SF-270) submitted by Kawerak,

Incorporated. Requests for advances or reimbursements may be made at the end of each quarter and should be submitted no later than 30 days after the federal quarter. The SF-270 must be submitted to the Denali Commission via fax, e-mail ([finance@denali.gov](mailto:finance@denali.gov)) or mail in order for payment to be processed. The form is available on the OMB website: [http://www.whitehouse.gov/OMB/grants/grants\\_forms.html](http://www.whitehouse.gov/OMB/grants/grants_forms.html). Payments shall be made in accordance with OMB A-102. Please contact the Denali Commission's Finance Manager at (907)-271-1414 for further information about submitting this form. **No interest will be accrued on these funds.**

## **7. Reporting**

Two forms of project reporting are required under this Award, listed below. Kawerak shall submit reports using the Denali Commission's on-line Project Database System, available at [www.denali.gov](http://www.denali.gov). If there are technical limitations which may prevent the recipient from meeting this requirement, please contact the Program Manager listed in this agreement.

- a. **Progress Reports** shall be submitted on a quarterly basis. The first reporting period is October 1, 2006 to December 31, 2006 and quarterly thereafter. Reports are due within 30 days of the end of the reporting period. Progress reports shall include the following:
  - i. Total project funding, including both Denali Commission funding and other project funding sources.
  - ii. The total project expenditures for the project as of the end of the reporting period, including both Denali Commission and other funding sources.
  - iii. Updated schedule and milestone information as identified in the Scope of Work
  - iv. Narrative summary of the project status and accomplishments to date, and address the following questions: is the project on schedule, is the project on budget, and what actions are planned to address any project problems.
  - v. **Non-Construction Projects** For minor repair and renovation projects or other non-construction projects, pictures should be provided of before and after, or photos that are representative of the funded activity, to the extent possible. Photos shall be provided in a digital format as part of the on-line report. A short description of the activity and names of those in the photos shall also be provided.
- b. **Federal Single Audits** shall be submitted annually, when required. In accordance with OMB Circular A-133, which requires [subpart 200] "Non-Federal entities that expend \$500,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part [subpart 205]. The determination of when an award is expended should be based on when the activity related to the award occurs."

Recipients shall also submit single audits to the Federal Clearinghouse as designated by OMB. Information can be found on the following web-site:  
<http://harvester.census.gov/sac/>

## **8. *Project/Award Close-Out***

The project close-out report shall be completed within 90 days of the end of the Award performance period or within 90 days of the completion of the project, whichever is earlier. Recipients must also draw down any remaining funds for expenditures incurred under this award during this 90-day period.

The project closeout report shall be submitted on-line through the Denali Commission on-line Project Database System, available at [www.denali.gov](http://www.denali.gov). The project close out will require the recipient to submit the following information:

- a. Final data for each item listed in paragraph 7(a) "Progress Reports"
- b. Final project expenditures itemized by the following categories: planning & design; materials & equipment; freight; labor; project administration/overhead and other expenses.
- c. Acknowledgement of support: For all non-construction projects, the Award recipient shall include an acknowledgement of the Government's support for the project(s) developed under this Award. The format for acknowledgement of the Government's support for non-construction awards will vary with each award and must be agreed upon between the Award recipient and the Denali Commission Project Manager. Costs associated with this requirement shall be paid out of the project funding received by the Award recipient from the Denali Commission.

## **9. *Public Policy Laws and Assurances***

Award Recipients are required to comply with the public policy laws and assurances on Standard Forms SF 424d (construction projects). This form must also be signed by a certifying official of the organization. Some of the laws are highlighted below for your reference.

To the maximum extent practicable, considering applicable laws, Funding Recipients shall accomplish the project contemplated by the Award using local Alaska firms and labor.

No portion of this award may be used for lobbying or propaganda purposes as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74.

Project level environmental reviews in accordance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA) will be prepared as part of project design for Denali Commission approval.

### ***10. Non-Compliance with Award Conditions***

Recipients not in compliance with the terms and conditions of this Financial Assistance Award will be notified by the Denali Commission. The Denali Commission will work with the recipient to identify the steps necessary to bring them back into compliance, and will establish an appropriate time frame for the corrections to be made. If the corrections have not been made by the deadline, the Denali Commission reserves the right to either suspend or unilaterally terminate the Financial Assistance Award for non-performance.

### ***11. Program Manager, Financial Manager & Other Contact Information***

<b>Denali Commission</b>	<b>Kawerak, Incorporated</b>
Mr. Mike McKinnon Transportation Program Manager 510 "L" Street, Suite 410 Anchorage, AK 99501 Phone: 907-586-1986 Fax: 907-271-1415 E-mail: <a href="mailto:mgmckinnon@gci.net">mgmckinnon@gci.net</a>	Mr. Sean McKnight, PE Kawerak Transportation Director PO Box 948 Nome, AK 99762 Phone: 907-443-4337 Fax: 907- 443-4452 Email: <a href="mailto:trans.pd@kawerak.org">trans.pd@kawerak.org</a>
Ms. Joey Ausel Grants Administrator 510 L Street, Suite 410 Anchorage, AK 99501 Phone: 907-271-3415 Fax: 907-271-1415 E-mail: <a href="mailto:jausel@denali.gov">jausel@denali.gov</a>	Ms. Ginny Emmons Chief Financial Officer PO Box 948 Nome, AK 99762 Phone: 907-443-5231 Fax: 907-443-4452 Email: <a href="mailto:ginny@kawerak.org">ginny@kawerak.org</a>

### ***12. Attachments***

- 1) Nonprofit Organization Indirect Cost Negotiation Agreement between Kawerak, Inc. and U.S. Department of the Interior, 2006.
- 2) Memorandum of Agreement between the Denali Commission and Kawerak, Incorporated, 2006.



# **Nonprofit Organization Indirect Cost Negotiation Agreement**

EIN: 92-0047009

**Organization:**

Kawerak, Inc.  
P.O. Box 948  
Nome, Alaska 99762

**Date:** February 28, 2006

**Report No(S):** 06-A-312(04F)  
06-A-313(06P)

**Filing Ref.:**  
Last Negotiation Agreement  
Dated January 5, 2005

The indirect cost rate contained herein is for use on grants, contracts, and other agreements with the Federal Government to which Office of Management and Budget Circular A-122 applies, subject to the limitations in Section II. of this agreement. The rate is negotiated by the U.S. Department of the Interior, National Business Center, and the subject organization in accordance with the authority contained in the Circular.

**Section I: Rates**

Type	Effective Period		Rate*	Locations	Applicable To
	From	To			
Final	01/01/04	12/31/04	30.09%**	On-Site	All Programs Except Compact
Final	01/01/04	12/31/04	23.87%**	Off-Site	All Programs
Final	01/01/04	12/31/04	53.42%**	Compact	All Programs
Final	01/01/04	12/31/04	5.00%***	Passthrough	All Programs
Provisional	01/01/06	12/31/06	27.35%**	On-Site	All Programs Except Compact
Provisional	01/01/06	12/31/06	21.38%**	Off-Site	All Programs
Provisional	01/01/06	12/31/06	50.00%**	Compact	All Programs
Provisional	01/01/06	12/31/06	5.00%***	Passthrough	All Programs

\*Base: Total direct costs, less capital expenditures and subawards greater than \$25,000.

\*\*Base: Passthrough funds only.

Treatment of fringe benefits: Fringe benefits applicable to direct salaries and wages are treated as direct costs; fringe benefits applicable to indirect salaries and wages are treated as indirect costs.

**Section II: General**

Page 1 of 3

A. Limitations: Use of the rates contained in this agreement is subject to any applicable statutory limitations. Acceptance of the rates agreed to herein is predicated upon these conditions: (1) no costs other than those incurred by the subject organization were included in its indirect cost rate proposal, (2) all such costs are the legal obligations of the grantee/contractor, (3) similar types of costs have been accorded consistent treatment, and (4) the same costs that have been treated as indirect costs have not been claimed as direct costs (for example, supplies can be charged directly to a program or activity as long as these costs are not part of the supply costs included in the indirect cost pool for central administration).

**SECTION II: GENERAL (continued)**

Page 2 of 3

**B. Audit:** All costs (direct and indirect, federal and non-federal) are subject to audit. Adjustments to amounts resulting from audit of the cost allocation plan or indirect cost rate proposal upon which the negotiation of this agreement was based will be compensated for in a subsequent negotiation.

**C. Changes:** The rates contained in this agreement are based on the organizational structure and the accounting system in effect at the time the proposal was submitted. Changes in organizational structure, or changes in the method of accounting for costs which affect the amount of reimbursement resulting from use of the rate in this agreement, require the prior approval of the responsible negotiation agency. Failure to obtain such approval may result in subsequent audit disallowance.

**D. Provisional/Final Rates:** Within 6 months after year end, a final rate must be submitted based on actual costs. Billings and charges to contracts and grants must be adjusted if the final rate varies from the provisional rate. If the final rate is greater than the provisional rate and there are no funds available to cover the additional indirect costs, the organization may not recover all indirect costs. Conversely, if the final rate is less than the provisional rate, the organization will be required to pay back the difference to the funding agency.

**E. Agency Notification:** Copies of this document may be provided to other federal offices as a means of notifying them of the agreement contained herein.

**F. Record Keeping:** Organizations must maintain accounting records that demonstrate that each type of cost has been treated consistently either as a direct cost or an indirect cost. Records pertaining to the costs of program administration, such as salaries, travel, and related costs, should be kept on an annual basis.

**G. Reimbursement Ceilings:** Grantee/contractor program agreements providing for ceilings on indirect cost rates or reimbursement amounts are subject to the ceilings stipulated in the contract or grant agreements. If the ceiling rate is higher than the negotiated rate in Section I of this agreement, the negotiated rate will be used to determine the maximum allowable indirect cost.

**H. Use of Other Rates:** If any federal programs are reimbursing indirect costs to this grantee/contractor by a measure other than the approved rates in this agreement, the grantee/contractor should credit such costs to the affected programs, and the approved rate should be used to identify the maximum amount of indirect cost allocable to these programs.

**I. Central Service Costs:** Where central service costs are estimated for the calculation of indirect cost rates, adjustments will be made to reflect the difference between provisional and final amounts.

**J. Other:**

1. The purpose of an indirect cost rate is to facilitate the allocation and billing of indirect costs. Approval of the indirect cost rate does not mean that an organization can recover more than the actual costs of a particular program or activity.

**SECTION II: GENERAL (continued)**

Page 3 of 3

2. Programs received or initiated by the organization subsequent to the negotiation of this agreement are subject to the approved indirect cost rate if the programs receive administrative support from the indirect cost pool. It should be noted that this could result in an adjustment to a future rate.

3. New indirect cost proposals are necessary to obtain approved indirect cost rates for future fiscal or calendar years. The proposals are due in our office 6 months prior to the beginning of the year to which the proposed rates will apply.

**SECTION III: ACCEPTANCE**

Listed below are the signatures of acceptance for this agreement:

By the Nonprofit Organization:

By the Cognizant Federal Government Agency:

Ginny Emmons /s/

Ginny Emmons  
Name

Chief Financial Officer  
Title

2/21/06  
Date

/s/ Deborah A. Moberly

Deborah A. Moberly  
Name

Indirect Cost Coordinator  
Indirect Cost Services  
Title

U.S. Department of the Interior  
National Business Center  
Agency

Date February 28, 2006  
Negotiated by Te Lam-Vi  
Telephone (916) 566-7111



**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
DENALI COMMISSION  
AND  
KAWERAK, INCORPORATED**

**SAFETEA-LU SECTION 1960 ROAD PROJECTS AND SECTION 1934  
WATERFRONT DEVELOPMENT PROJECTS**

**October 2006**

**PARTIES AND PURPOSE:**

The purpose of this Memorandum of Agreement (MOA) is to establish a cooperative agreement defining terms and conditions for projects developed through the authority granted in Section 309 of the Denali Commission Act of 1998 (Pub. L. No. 105-277), Division C, Title III, 112 Stat. 2681-637 (The Denali Commission Act), as amended by Section 1960 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU") (Pub. L. No. 109-59, 119 Stat. 1144), and Section 1934 of SAFETEA-LU related to Waterfront Development and related transportation infrastructure projects.

The Federal Highway Administration (FHWA) is responsible for program oversight and stewardship for Section 1960 and Section 1934 funds, including implementation guidelines for each section and financial reporting requirements that are to be used in conjunction with this agreement. The attached FHWA and Denali Commission MOU is a reference document for this MOA:

Funds are made available and the parties are operating under the authorities cited above, Title 23 U.S.C. Chapter 1 Federal Aid Highways and implementing guidance.

**SCOPE OF WORK:**

Kawerak may participate in Commission project solicitation and selection processes through submittal of projects for consideration by the Commission's Transportation Advisory Committee (TAC). Kawerak may advise the Commission on technical and engineering issues associated with projects submitted and may participate in Commission planning for highways, port and dock facilities, marine or marine connection facilities, and transportation access infrastructure.

The Commission and Kawerak will advance selected projects by mutual agreement.

### **PROJECT AGREEMENT DOCUMENTATION:**

The Commission and Kawerak will execute a mutually agreed upon project Grant Award. Each Grant Award will determine Commission and Kawerak roles and responsibilities.

The Grant Award may be amended during project development to change the amount of funds provided under the original Grant Award, modify the original scope, or change the performance period. These actions will take place by mutual consent.

Grant Awards, or amendments and addenda, will provide details concerning the use of allocated federal funds, specific funding sources and reimbursable payment guidelines and rules. Grant Awards will define the scope, funding amount and sources, and timeline for each project.

### **PROJECT COST ACCOUNTING:**

The Kawerak cost accounting system, approved by Denali Commission, will be the basis for financial documentation and reporting. The system must comply with Title 23 U.S.C. and Office of Management and Budget (OMB) Circular A-122 Cost Principles.

Kawerak will submit requests for project reimbursements to the Commission on a quarterly basis using SF-270 Request for Advance or Reimbursement. Reports SF 270 and SF 269 will be submitted together.

### **KAWERAK ROLES AND RESPONSIBILITIES:**

Kawerak responsibilities may vary from project to project as set forth in the Grant Award document. However, unless otherwise agreed, the following general rules will apply:

1. For each project assigned under this agreement Kawerak will, prepare a Project Management Plan (PMP) that defines the project scope, schedule and budget. The PMP will be included in Kawerak project material submitted to the Commission.
2. For each project wherein the construction phase is the primary phase of Commission participation, Kawerak will provide Design phase documentation for the project file, including
  - a) Environmental documents and permits, and Right of Way documentation provided for the project.
  - b) Record of design standard decisions and overall design process management.

- c) Record of Kawerak procedures for meeting Title 23 project requirements. The Commission will coordinate with Kawerak to specify a different design standard than may otherwise be required by Title 23 pursuant to Denali Commission Act 1998, Section 309(e).
3. For each project wherein the design phase is the primary phase of Commission participation, Kawerak will provide the following for Commission review
- (a) PMP, including design standard selected for the project
  - (b) Environmental Assessment documents for Commission review and/or approval, based on a determination of lead federal agency assignment.
  - (c) Right of Way documentation that determines Right of Way is adequate for construction, review or approval by Commission based on determination of lead federal agency assignment. A record of public meetings or other documentation of public coordination will also be provided for Commission files.
4. If during the course of carrying out its Grant Award duties Kawerak learns of any project cost overrun, project schedule delay, change in the project scope, or changed site conditions, Kawerak shall inform the Commission in a timely manner.
5. Kawerak shall report financial expenditures and project progress in accordance with the "Reports" section of this agreement.
6. Upon project completion, Kawerak shall provide a closeout package inclusive of a Construction Final Estimate, a report from the Kawerak accounting system documenting total project expenditures and a Commission Project Database System closeout report.
7. In the course of project design and/or construction under Commission funding, Kawerak will reference and incorporate into their procedures, the attached MOU between FHWA and Commission, and FHWA Section 1960 and Section 1934 Implementation guidelines as applicable.
8. Kawerak will provide the non-Federal match.

#### **COMMISSION ROLES AND RESPONSIBILITIES:**

The Commission role in project development will vary depending on whether the Commission is providing matching or contributing funds to Kawerak, or whether the Commission is providing all funds except for match fund requirements. In the latter case, it is generally recognized the Commission will have federal lead agency responsibilities



with regard to FHWA procedures including design standard, environmental document and Right of Way certification: In each case, the Commission will:

1. Comply with and be responsible for all the terms and conditions contained in its MOU with FHWA relating to SAFETEA-LU Section 1960 and 1934, and all other applicable Title 23 U.S.C. requirements. Both parties will use FHWA implementation guidelines issued for these SAFETEA-LU sections as program guidance.
2. Prepare a Grant Award for each project with Kawerak as described above.
3. When designated as federal lead agency, review, modify as needed, and sign, a finding of no significant impact (FONSI) or other applicable environmental documents for each project that has been prepared by Kawerak.
4. When designated as federal lead agency, review, modify as needed and sign ROW certifications for each project ensuring ROW is adequate for project construction. Kawerak prepares the ROW documentation.
5. Maintain communications with Kawerak on each project to ensure an ongoing understanding and acceptance of project environmental, design and construction decisions.
6. Provide timely action on Kawerak reimbursement requests rendered under this memorandum of agreement.
7. Respond in a timely manner and/or inform Kawerak regarding any communications pertaining to project cost overruns, project schedule delays, changes in the project scope, or changed site conditions.

## **REPORTS:**

Financial reporting shall be done in accordance with financial assistance award condition documents.

Progress reporting shall be done on a quarterly basis, in accordance with the financial assistance award condition documents, unless modified by the Commission's program manager, using the Commission's web-based Project Reporting System. Kawerak will provide the status for each project, including project narrative, funding and expenditures, project photos (if applicable), and a statement on project progress. Kawerak and the Commission may also report informally to third parties on project and program progress using standard reporting devices within each organization.

Both parties to this agreement will cooperate to ensure reporting is accomplished through interface of their respective automated reporting systems.

A final closeout report, submitted through the Commission web-based Project Reporting System, is due within 90 days of the end of the performance period or completion of the project

#### **PROCUREMENT REQUIREMENTS:**

Kawerak procurement actions, if any, will be accomplished in accordance with Title 23 U.S.C. procedures. Key features include, open, fair competitive bid processes and during construction, labor payments based on Davis-Bacon wage scales as applicable. Kawerak agrees to notify Denali Commission of all projects in which force accounting will be used. Kawerak shall comply with Title 23 U.S.C. force accounting procedures.

#### **INDEMNIFICATION:**

In all projects, Kawerak agrees to indemnify the Commission in project agreements for damages or loss caused by Kawerak's own fault or negligence.

#### **TRIBAL RELATIONS**

The Commission may request a sovereign immunity waiver provision or other provisions deemed necessary to meet the requirements of Title 23, U.S.C. In accordance with 23 U.S.C. 101 (a) (12) and 140 (d), and 23 CFR 635.117 (d). Kawerak may utilize a native preference in hiring and retention of otherwise qualified labor for projects. The parties agree to work with each other in good faith to assist and cooperate in minimizing changes in the execution of Kawerak projects.

#### **DURATION OF AGREEMENT:**

This Agreement shall continue in force until such time that the Commission or Kawerak provides written notice of termination - one hundred and twenty days (120) in advance of termination date. In the event the agreement is terminated, any projects begun under the MOA will be completed or otherwise terminated in accordance with the provisions of this MOA and Title 23 U.S.C. The agreement can be amended, as agreed upon by both parties.

#### **DISPUTE RESOLUTION:**

Should disagreement arise on the interpretation of the provisions of this MOA, or as amended, that cannot be resolved; the area(s) of disagreement will be stated in writing by each party and presented to the other party for consideration. This process shall take no longer than 30 days. If agreement on interpretation is not reached within an additional thirty days from exchange of the written interpretation(s), the parties may then move forward to mediation and/or arbitration with a neutral third party.

**SIGNATURES:**

IN THE WITNESS WHEREOF, the parties have subscribed their names,

Oct 27, 2016

Date

George J. Cannelos

George J. Cannelos  
Federal Co-Chair  
Denali Commission

10-26-08

Date

Loretta Bullard

Loretta Bullard  
President  
Kawerak, Incorporated